

KENTUCKY PAROLE GUIDELINES RISK ASSESSMENT PROJECT

The Kentucky Parole Board has a new tool at its disposal to assist it in carrying out its mission to protect the public by making reasoned and rational conditional release decisions, based on good and sufficient information. Pursuant to KRS 439.340 the Board may order parole for an inmate "...only for the best interest society..." and "...when the board believes he is willing and able to fulfill the obligations of a law abiding citizen." 501 KAR 1:030 Section 4 (1) set out a list of criteria, many fairly general, that the Board may use in recommending or denying parole.

In 1991 the Program Review and Investigations Committee of the Legislative Research Commission examined Kentucky's parole system. It recommended that Kentucky, as have several other states, add structure to its parole decision making process by developing and implementing a risk assessment instrument to use as a factor in evaluating an inmate's readiness for parole. The Committee further recommended that, "The instrument should be constructed to group inmates into risk categories based on characteristics and recidivism patterns of previous Kentucky parolees."

Properly validated and administered statistical risk assessments are generally found to be more accurate than clinical judgment. They have been used for years in the fields of medicine and insurance. Many view their adaptation to use in the field of corrections as having revolutionized correctional practice. They are used currently, among other things, to make decisions on institutional assignments, programming and community supervision levels.

In 1993 the Parole Board constructed a risk assessment instrument. It was used for a short period of time but fell out of use because there was no staff in place to gather the information needed to complete the instrument.

In 2001 the Board obtained Byrne grant funding and hired criminologist Dr. James Austin of the George Washington University Institute on Crime, Justice and Corrections to construct a new instrument and assist the Board in its implementation. In developing the risk assessment he undertook a recidivism study. The study consisted of drawing a sample of approximately 7,600 prisoners who were released in 1998 and tracking them for three years. A large amount of information was collected on each prisoner including whether they were returned to prison and for what reasons.

Factors that were found to have an independent statistical relationship with a return to prison (for either a technical violation or a new sentence) were used to identify prisoners by their level of risk. The risk instrument was pilot tested by the Parole Board staff to ensure the guidelines could be applied in an accurate and reliable manner. The overall result was a risk based decision-making tool that was both reliable and valid.

As indicated by the accompanying chart, the higher the offender scores on the risk assessment instrument the higher the chances are that he will re-offend. As you will notice, the chart displays not only the chances of returning to prison, but also the chances of doing so for a new felony.

Unlike the previous instrument, the new one contains both static and dynamic factors. Static factors are those that will never change subsequent to incarceration, such as the type of crime committed and the number of prior incarcerations and revocations. The dynamic variables, such as age, custody level and program participation, can and do change over the course of an inmate's incarceration. Even the score an inmate receives for having a serious substance abuse problem can change with the completion of treatment.

Recognizing that offense severity also plays a role in the release decision-making process the Board developed an "offense severity index" that groups all felony offenses into four categories. A copy of this index accompanies this article.

In order to not repeat the mistakes of the past, the Board hired staff and stationed them at the various correctional facilities to gather the information necessary to complete the risk assessment and assign a severity level. In the weeks preceding an inmate's parole consideration a Parole Board Specialist will review the inmate's Department of Corrections file and, using the form and a detailed set of instructions, developed with Dr. Austin's help, make a preliminary assessment of the inmate's risk level.

The Specialist will then conduct an interview with the inmate to clarify any unclear information and gather information that may not be available from the file. Following this interview the Specialist will meet with the inmate again to explain the completed instrument to the inmate and present him a copy.¹ For those inmates housed in jails or community centers, a Specialist housed in the Central office will complete the instrument by a file review only.

The risk assessment form which also includes the offense severity rating, is filed and is available to the Board when they interview the inmate, or in the case of an inmate convicted of a Class D felony who is housed in a jail, when their file is reviewed. While this assessment does not dictate the decision of the Board it is a tool they can use to assist them in rendering a reasoned and rational decision based upon information about objective factors that have been scientifically proven to relate to an inmates chances for returning to the community without returning to criminal conduct.

As a part of the development and implementation of the risk assessment and offense severity index, Dr. Austin's staff has created a database that will not only allow the assessment form to be complete electronically but will store the data about the risk level score and the offense severity rating as well as the individual factor scores that make up the final rating. Once the Board renders a decision it will also be included in the database. This will allow the Board to analyze its decision making process as it has never before been able to do. Our hope is to also include a component in the database to analyze the cases of the parolees who return to

prison to see what factors appear to be related to their failure on supervision.

The decision to release someone from incarceration has serious public safety implications. All available resources and tools must be marshaled to assist in the decision making process. We believe that the Kentucky Parole Board now has state of the art technology to accomplish its mission.

Endnote:

1. The actual form produced by Parole Board staff and provided to the inmate and Board will be a computer generated form. The manual version of the form that accompanies this article better illustrates the scoring system used.

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OFFENSE SEVERITY AND RISK ASSESSMENT MATRIX

(Place Check in appropriate box)

<i>Offense Severity</i>	<i>Risk Level</i>			
	IV	III	II	I
Highest				
High				
Moderate				
Low				

**STATE OF KENTUCKY RECIDIVISM
 RATE BY RISK LEVEL**

Characteristic	Number	Percent	% Returned	% New Conviction
Level I	1,658	24.3	20.3	9.5
Level II	3,938	57.8	36.8	16.8
Level III	947	13.9	43.4	22.7
Level IV	267	4.0	54.3	27.0
Total	6,810	100.0	34.4	16.3

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OFFENSE SEVERITY INDEX

This index is to be used when determining the severity of the current offense committed by an inmate to whom parole guidelines are being applied. It is compiled from the Kentucky Revised Statutes, Orion listings and consultation among the Board.

INTRODUCTION

KRS 532.020 designates the class of offenses as follows:

At least 1 but not more than 5 year sentence - Class D Felony
 At least 5 but not more than 10 year sentence - Class C Felony
 At least 10 but not more than 20 year sentence- Class B Felony
 At least 20 but not more than 50 years or life - Class A Felony

The statutes which set forth the definition of the various crimes also designate the Class of the felony described. Although this index closely follows the statutory classifications, it does depart from it in instances due to the nature of the crime. e.g. violence or offense involving a child of tender years. The statutory designations are helpful for our purposes where the age of the victim or the fact that the victim receives physical injuries enhances the statutory Class of Felony. (For example, use of minor in a sexual performance is a Class C Felony if the minor is less than 18 years old, a Class B Felony if the minor is less than 16 years old, and a Class A felony if the minor receives physical injury.)

This index classifies offenses in the categories of **HIGHEST, HIGH, MODERATE** or **LOW**.

GENERAL PRINCIPLES

The current offense committed shall be determined from the Resident Record Card or the Judgment of the court. Any discrepancies or uncertainties shall be resolved by designating the offense in the higher class of severity.

If the offense and the number of years sentenced do not agree, the discrepancy shall be resolved by designating the offense in the higher class of severity indicated either by the number of years sentenced or the current offense.

If the current offense involves more than one offense, offense severity shall be determined by the offense in the higher class of severity.

If the current offense is **facilitation** to commit an offense, the offense severity shall be determined by locating the offense severity category of the offense facilitated and reducing the severity to the next lower category. (For example, kidnapping is in the "HIGHEST" offense severity category, facilitation to kidnapping would fall in the "HIGH" category.)

Complicity, Aiding and Abetting, Conspiracy, Criminal Attempt and Persistent Felony Offender offenses shall be designated as having the same offense severity as the basic charge.

OFFENSE SEVERITY DESIGNATION

The offense severity designation of offenses for purposes of the Kentucky Parole Board Decision Guidelines is as follows:

HIGHEST

Murder
 Manslaughter I
 Kidnapping
 Arson I
 Rape I
 Sodomy I
 Assault I
 Robbery I
 Promoting Prostitution I
 Sexual Abuse I
 Use of a Minor in a Sexual Performance (Class A or B felony)
 Promoting Sexual Performance by a Minor (Class A or B Felony)
 Unlawful Transaction with a Minor I (Class A or B Felony)
 Criminal Abuse I

HIGH

Arson II and III
 Manslaughter II
 Rape II and III
 Sodomy II and III
 Robbery II
 Assault II and III
 Prostitution with Knowledge of HIV Infection
 Procuring Prostitution With Knowledge of HIV Infection
 Assault Under Extreme Emotional Disturbance
 Burglary I
 Criminal Abuse II
 *Criminal Possession of a Destructive Device or Booby Trap
 Abandonment of a Minor
 Escape I
 Attempt to Escape from Penitentiary
 Engaging in Organized Crime
 Disarming a Peace Officer
 Incest
 Intimidating a Judicial Officer
 Intimidating a Juror
 Intimidating a Witness
 Manufacture of Methamphetamine
 *Possession of Anhydrous Ammonia in Unapproved Container with Intent to Manufacture, First, Second or Subsequent Offense
 Possession of Firearm at Time of Drug Offense
 Possession of Firearm by Convicted Felon
 Abuse or Neglect of Adult (Class C Felony)
 Receiving Stolen Property (Anhydrous Ammonia to Manufacture Meth)
 Reckless Homicide
 Retaliating Against a Witness
 Riot I
 Selling Controlled Substances to a Minor
 Stalking I
 *Terroristic Threatening First and Second Degree
 Theft of Identity
 Trafficking in a Controlled Substance I
 Trafficking in Stolen Identities
 Unlawful Imprisonment I
 Unlawful Possession of Weapon on School Property
 Unlawfully Providing Handgun to Juvenile

Unlawful Transaction With a Minor I (Class C Felony)
 Use of Minor to distribute Material Portraying Sexual Performance
 by a Minor
 Using Restricted Ammunition in Commission of Crime
 Wanton Endangerment I

MODERATE

Abuse of a Corpse
 Assault IV (Class D Felony)
 Bail Jumping I
 Bribery of a Public Servant
 Providing Pecuniary Benefit for Bribery of a Public Servant
 Receiving Bribe by Juror
 Receiving Bribe by Witness
 Bribing a Juror
 Bribing a Witness
 Burglary II and III
 Burning Personal Property to Defraud Insurer
 Criminal Gang Recruitment
 Carrying Concealed Weapon
 Criminal Possession of a Forged Instrument I
 Cruelty to Animals I
 Custodial Interference
 Desecration of Venerated Objects I
 Distribution of Matter Portraying Sexual Performance by Minor
 Escape II
 *Exploitation of an Adult by Caregiver Over \$300 (Any Class)
 Failure to Register as a Sex Offender
 Fleeing or Evading Police I
 Forgery I and II
 Forgery of a Prescription
 Fraud or False Statement in Obtaining Controlled Substances or
 Regarding Prescriptions
 Hindering Prosecution or Apprehension I
 Institutional Vandalism
 *Misuse of Computer Information
 Marijuana Cultivation
 Operating Motor Vehicle Under the Influence
 Operating Motor Vehicle While License Suspended for DUI
 *Operating a Motor Vehicle While License Suspended (the language
 "While License Suspended for DUI" is stricken)
 Possession of Handgun by a Minor
 Procuring Another to Commit Prostitution with Knowledge of HIV
 Infection
 Promoting Contraband I
 Promoting Sale of Material Promoting Sexual Performance by a Minor
 Abuse or Neglect of Adult (Class D Felony)
 *Tampering with Anhydrous Ammonia Equipment with Intent to
 Manufacture First, Second, or Subsequent Offense
 Theft by Extortion
 Theft of Mail Matter
 Trafficking in a Controlled Substance in or Near a School
 Trafficking in a Controlled Substance II
 Trafficking in Marijuana
 *Unlawful Access to Computer First Degree
 Unlawful Transaction with a Minor II
 Use of Minor to Distribute Obscene Material
 Violating Graves
 *Any Unlisted drug offense which is a Class C Felony or above.
 *Any unlisted theft or fraud offense which is a Class C Felony or
 above.

LOW

Bigamy
 Conspiracy to Promote Gambling
 Counterfeiting
 Criminal Mischief I
 Criminal Possession of a Forged Instrument II
 Criminal Possession of a Forged Prescription
 Defrauding Secured Creditors
 Eavesdropping
 *False Making or Embossing Credit/Debit Card
 *False Statement as to Identity or Financial Condition
 Filing an Illegal Lien
 *Forging, Altering or Counterfeiting a State Lottery Ticket
 *Fraudulent Use of a Credit Card
 Fraud or False Statement in Obtaining Assistance Benefits for Fami-
 lies, Children, Elders
 Fraud or False Statement in Obtaining Health Care Assistance Ben-
 efits
 Illegal Participation in Business of Insurance
 Impersonating a Peace Officer
 Installing an Eavesdropping Device
 Misuse of Confidential Information
 Nonsupport and Flagrant Nonsupport
 Obscuring Identity of Machine or Other Property
 Operating a Sham or Front Company
 Perjury I
 Possession of Controlled Substance I
 *Possession of a Controlled Substance Third Degree First, Second
 and Subsequent Offense
 Possession of a Forgery Device
 Possession of Gambling Records I
 Possession of Matter Portraying a Sexual Performance by a Minor
 Possession of Stolen Mail Matter
 Possession, Use or Transfer of Device for theft of Telecommunica-
 tions Services
 *Prohibited Activities Relating to Controlled Substances First, Sec-
 ond or Subsequent Offense
 Promoting Gambling I
 Promoting Prostitution II
 Promoting Sale of Obscenity
 Receiving Deposits in Failing Financial Institution
 Receiving Sports Bribe
 *Receiving Goods, Services etc Obtained by Fraud
 Receiving Stolen Property
 Sale and Transport of Alcoholic Beverages
 *Simulating a Controlled Substance First, Second or Subsequent
 Offense
 Sports Bribery
 *Tampering with Anhydrous Ammonia Equipment
 Tampering With Physical Evidence
 Tampering With Public Records
 Theft by Deception
 Theft by Failure to Make Required Disposition
 Theft by Unlawful Taking
 *Theft by Unlawful Taking-Firearm
 Theft of Controlled Substance or Legend Drug
 Theft, Possession or Trafficking in Prescription Blanks
 Theft of Property Lost, Misplaced or Delivered by Mistake
 Theft of Services
 Unauthorized Use of a Vehicle
 Use, Possession or Advertisement of Drug Paraphernalia
 *Unlawful Access to a Computer Second Degree

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*Unlawful Distribution of Methamphetamine Precursor First, Second or Subsequent Offense

*Unlawful Possession of Methamphetamine Precursor First, Second, or Subsequent Offense
Using Slugs I

*Any unlisted drug offense which is a Class D Felony.

*Any unlisted theft or fraud offense which is a Class D Felony

*Offenses that were added to the Offense Severity Index through Addendum I on May 16, 2003. ■

STATE OF KENTUCKY PAROLE GUIDELINES RISK ASSESSMENT FORM			
Inmate Name: _____		Inmate #: _____	
Institution: _____		PED: _____	
Static Items	Pts	Dynamic Items	Pts
1. Current Offense		6. Age At Time of Hearing	
Theft/Burglary/Robbery	2	21 or Under	4
Other	0	22-30	3
List Offense:		31-40	2
		41-50	1
		51 and above	0
2. Any Felon Revocation(s)		7. Current Classification Level	
Yes	2	Community/ Min /Restricted/Medium	0
No	0	Close/Maximum	2
List Type of Revocation and the date:		List Current Classification Level:	
3. Prior DOC Incarcerations		8. Completed Ed/Voc/Treatment Programs	
One or More	1	No	2
None	0	Yes	0
4. High School Degree/GED or Attending School or Employed for at least 6 months prior to arrest		List Programs and Date Completed:	
None	2		
One Condition Met	1		
Two Conditions Met	0		
List which Condition was met and the Source:		9. Most Severe Disciplinary Report in the last 2 years (If in local jail match with DOC category & list here)	
		Category VI or VII	2
		Category IV or V	1
		None/Category III or below	0
		10. Current Drug Abuse Rating	
		None/Occasional/Serious-Addressed	0
		Serious Abuse – Not Addressed	2
5. Marital Status at Most Recent DOC Admission		Comments:	
Single - Never Married	1		
Other	0		
Total Static Score: _____		Total Dynamic Score: _____	
Total Risk Assessment Score: _____			
Overall Risk Level: (Check Correct Risk Level)			
<input type="checkbox"/> Level I (0-6 pts) <input type="checkbox"/> Level II (7-11 pts) <input type="checkbox"/> Level III (12-14 pts) <input type="checkbox"/> Level IV (15+ pts)			
Parole Board Specialist Name: _____ Date ____/____/____			